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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/556,439	04/24/2000	John Kenneth Amick	8006-0019-13	7593

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EXAMINER

VU, TUAN A

ART UNIT PAPER NUMBER

2124

DATE MAILED: 03/17/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/556,439	Applicant(s) AMICK, JOHN KENNETH	
	Examiner Tuan A Vu	Art Unit 2124	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 December 2003.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-31 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date g.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

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Notice of Non-responsive Amendment

1. This action is responsive to the Applicant's response filed 12/26/2003.

As indicated in Applicant's response, Applicants do not possess a copy of the original claims on file and Applicants proposed amendments represent a different set of claims. Claims 1-31 are pending in the office action.

Specification

2. The amended specification filed 12/26/2003 has not been entered because it does not conform to 37 CFR 1.121(b) and (c) because of the following.

The specification with markings for denoting the added or deleted portions of text does not seem to be the same original specification as filed for the case. By a telephonic communication in 02/2004, Applicant had informed that the claims addressed by the outstanding Office Action do not match with the disclosure that Applicant possesses and thus believes to be the original application. To avert potential complications due to introduction of new subject matter, Applicant is required to have a copy of the original specification based upon which to make the changes for generating an amended specification. The Applicant is advised to submit a written request to or contact the Office of Public Records (phone: 703 308 9743) or the File Information Unit/Office of Administrative Services, e.g. Donna Wyatt, tel. No: 703 308 2733, for assistance about retrieving an official copy of the application along with information as to pay required fees. Applicant is reminded that in the process of making amendments to the claims, no new subject matter should be included as per 35 U.S.C. 132.

Claims and Remarks

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3. The reply filed on 12/26/2003 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

The response does not submit a set of claims to which Applicant intends to incorporate changes.

The set of claims provided with Applicant's response and ~~to~~ which Applicant believes to be the original set from which to apply changes is a different set of claims than that originally filed for the instant application. During a telephonic communication in 02/2004, Applicant had informed that the claims addressed by the outstanding Office Action do not match the claim set that Applicant possesses. In Applicant's current response, it is noted that some claims with markings for denoting changes do not seem to be from the same original set as filed for the case and further do not comply to the provisions of 37 CFR 1.121. Applicant is herein advised to recover the original set of claims from the PTO Office of Public Records or File Information Unit office.

For claims amendment, Applicant is advised to follow the provisions as set forth in 37 CFR § 1.121. See excerpt from below.

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

The Applicant is advised to submit a written request to or contact the Office of Public Records at 703 308 9743 or the File Information Unit/Office of Administrative Services, e.g.

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Donna Wyatt, tel. No: 703 308 2733, for assistance about retrieving an official copy of the application or the original set of claims along with information as to pay required fees. For further assistance, Applicant can contact Examiner at numbers provided at the end of this action.

37 CFR 1.121. Manner of making amendments in application.

- (a) Amendments in applications, other than reissue applications . Amendments in applications, other than reissue applications, are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made.
- (b) Specification other than the claims and listings provided for elsewhere (§ § 1.96 and 1.825) . —
 - (1) Amendment by instruction to delete, replace, or add a paragraph. Amendments to the specification, other than the claims and listings provided for elsewhere (§ § 1.96 and 1.825), may be made by submitting:
 - (i) An instruction, which unambiguously identifies the location, to delete one or more paragraphs of the specification, replace a deleted paragraph with one or more replacement paragraphs, or add one or more paragraphs;
 - (ii) Any replacement or added paragraph(s) in clean form, that is, without markings to indicate the changes that have been made; and
 - (iii) Another version of any replacement paragraph(s), on one or more pages separate from the amendment, marked up to show all the changes relative to the previous version of the paragraph(s). The changes may be shown by brackets (for deleted matter) or underlining (for added matter), or by any equivalent marking system. A marked up version does not have to be supplied for an added paragraph or a deleted paragraph as it is sufficient to state that a particular paragraph has been added, or deleted.
 - (2) Amendment by replacement section . If the sections of the specification contain section headings as provided in § § 1.77(b), 1.154(b), or § 1.163(c), amendments to the specification, other than the claims, may be made by submitting:
 - (i) A reference to the section heading along with an instruction to delete that section of the specification and to replace such deleted section with a replacement section;
 - (ii) A replacement section in clean form, that is, without markings to indicate the changes that have been made; and
 - (iii) Another version of the replacement section, on one or more pages separate from the amendment, marked up to show all changes relative to the previous version of the section. The changes may be shown by brackets (for deleted matter) or underlining (for added matter), or by any equivalent marking system.
 - (3) Amendment by substitute specification . The specification, other than the claims, may also be amended by submitting:
 - (i) An instruction to replace the specification;
 - (ii) A substitute specification in compliance with § 1.125(b); and
 - (iii) Another version of the substitute specification, separate from the substitute specification, marked up to show all changes relative to the previous version of the specification. The changes may be shown by brackets (for deleted matter), or underlining (for added matter), or by any equivalent marking system.
 - (4) Reinstatement : Deleted matter may be reinstated only by a subsequent amendment presenting the previously deleted matter.
- (c) Claims. —
 - (1) Amendment by rewriting, directions to cancel or add . Amendments to a claim must be made by rewriting such claim with all changes (e.g. additions, deletions, modifications) included.

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The rewriting of a claim (with the same number) will be construed as directing the cancellation of the previous version of that claim. A claim may also be canceled by an instruction.

(i) A rewritten or newly added claim must be in clean form, that is, without markings to indicate the changes that have been made. A parenthetical expression should follow the claim number indicating the status of the claim as amended or newly added (e.g., "amended," "twice amended," or "new").

(ii) If a claim is amended by rewriting such claim with the same number, the amendment must be accompanied by another version of the rewritten claim, on one or more pages separate from the amendment, marked up to show all the changes relative to the previous version of that claim. A parenthetical expression should follow the claim number indicating the status of the claim, e.g., "amended," "twice amended," etc. The parenthetical expression "amended," "twice amended," etc. should be the same for both the clean version of the claim under paragraph (c)(1)(i) of this section and the marked up version under this paragraph. The changes may be shown by brackets (for deleted matter) or underlining (for added matter), or by any equivalent marking system. A marked up version does not have to be supplied for an added claim or a canceled claim as it is sufficient to state that a particular claim has been added, or canceled.

(2) A claim canceled by amendment (deleted in its entirety) may be reinstated only by a subsequent amendment presenting the claim as a new claim with a new claim number.

(3) A clean version of the entire set of pending claims may be submitted in a single amendment paper. Such a submission shall be construed as directing the cancellation of all previous versions of any pending claims. A marked up version is required only for claims being changed by the current amendment (see paragraph (c)(1)(ii) of this section). Any claim not accompanied by a marked up version will constitute an assertion that it has not been changed relative to the immediate prior version.

(d) Drawings . Application drawings are amended in the following manner: Any change to the application drawings must be submitted on a separate paper showing the proposed changes in red for approval by the examiner. Upon approval by the examiner, new drawings in compliance with § 1.84 including the changes must be filed.

(e) Disclosure consistency . The disclosure must be amended, when required by the Office, to correct inaccuracies of description and definition, and to secure substantial correspondence between the claims, the remainder of the specification, and the drawings.

(f) No new matter . No amendment may introduce new matter into the disclosure of an application.

(g) Exception for examiner 's amendments: Changes to the specification, including the claims, of an application made by the Office in an examiner 's amendment may be made by specific instructions to insert or delete subject matter set forth in the examiner 's amendment by identifying the precise point in the specification or the claim(s) where the insertion or deletion is to be made. Compliance with paragraphs (b)(1), (b)(2) or (c)(1) of this section is not required.

(h) Amendments in reissue applications. Any amendment to the description and claims in reissue applications must be made in accordance with § 1.173.

(i) Amendments in reexamination proceedings : Any proposed amendment to the description and claims in patents involved in reexamination proceedings in both ex parte reexaminations filed under § 1.510 and inter partes reexaminations filed under § 1.913 must be made in accordance with § 1.530(d)-(j).

(j) Amendments in provisional applications: Amendments in provisional applications are not normally made. If an amendment is made to a provisional application, however, it must comply with the provisions of this section. Any amendments to a provisional application shall be placed in the provisional application file but may not be entered.

Conclusion

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (703)305-7207. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703)305-9662.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306 (for formal communications intended for entry)

or: (703) 746-8734 (for informal or draft communications, please consult Examiner before using this number)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, , 22202. 4th Floor(Receptionist).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VAT

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March 15, 2004

Kakali Chao

**KAKALI CHAO
SUPERVISORY PATENT EXAMINER
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